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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,775	02/18/2004	Kazue Sumida	742425-29	1641

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EXAMINER

ENGLE, PATRICIA LYNN

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 02/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/779,775

Applicant(s)

SUMIDA ET AL.

Examiner

Patricia L Engle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 11 and 12 is/are rejected.
- 7) ☒ Claim(s) 9 and 10 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/28/04</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. Claim 11 recites the limitation "said recess" in line 13. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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6. Claims 1, 2, 5 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Jach et al. (6,705,658 and 6,499,787- the two patents are divisional applications yet Figs. 13 and 14 are different. The Examiner is assuming that Figs. 13 and 14 in 6,705,658 are correct for both patents, otherwise the seat does not pivot on 114 as disclosed in the specification).

Regarding claim 1, Jach et al. disclose a seat storing structure for a vehicle, comprising: a seat (110) including a seat cushion (128) provided on a floor in a passenger compartment of the vehicle, a seat back (130) supported by a rear portion of said seat cushion (128), and a headrest (126) supported by said seat back (130), and constructed so as to selectively attain a seating state (Fig. 11) where said seat back is erected in the vicinity of rear portion of said seat cushion or a folded state (Fig. 12) where said seat back is folded down forward onto said seat cushion; a pivotally supporting mechanism (114) provided between said seat (110) and the floor for supporting said seat (110) and pivoting the seat rearward with said seat maintaining the folded state (Fig. 13 and 14 of 6,705,658); and a recess (116) formed in the floor behind said seat (Fig. 11) for storing said seat such that a surface of said seat cushion (128) is substantial alignment with the floor after said seat has been pivoted rearward with said seat maintaining the folded state (Fig. 13 and 14 of 6,705,658), wherein said headrest (126) is supported by said seat back (130) so as to shift between a first state (Fig. 12) where said headrest is located at the top of said seat back (130) with said seat in the seating state (solid lines), and a second state (Fig. 14) where said headrest (126) is located on a back surface (125) of said seat back (130) and within paths of pivotal motions of said seat back and seat cushion with said seat maintaining the folded state.

Regarding claim 2, Jach et al. disclose the seat storing structure for a vehicle as defined in Claim 1, wherein the outer periphery of the path of the pivotal motion of said seat cushion 128)

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and the outer periphery of the path of the pivotal motion of said seat back (130) are substantially identical to each other during the rearward pivotal motion of said seat with said seat being in the folded state and said headrest being in the second state (Fig. 14).

Regarding claim 5, Jach et al. disclose the seat storing structure for a vehicle as defined in Claim 1, wherein the back surface of said seat back (130) is formed with a depression (125) that accommodates said headrest (126) in the second state.

Regarding claim 6, Jach et al. disclose the seat storing structure for a vehicle as defined in Claim 1, wherein said headrest (126) is in contact with both said seat back (130) and a bottom surface of said recess (116) within a space defined between said seat back (130) and the bottom surface of said recess (116), when said seat has been stored in said recess (Fig. 14 of 6,705,658).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

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invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 3, 4, 7, 8, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jach et al. in view of Odagaki et al. (US Patent 5,269,581).

Regarding claim 3, Jach et al. disclose the seat storing structure for a vehicle as defined in Claim 2. Jach et al. disclose that the recess is larger than the seat that is stored in the recess, therefore the rear edge of the recess is not on the path of the seat cushion and seat back.

Regarding claim 7, Jach et al. disclose the seat storing structure for a vehicle, wherein the vehicle includes an opening portion (dotted line in Fig. 14) formed behind said seat and a hatch door (dotted line in Fig. 14) for opening and closing the opening portion, and said pivotally supporting mechanism (114), said seat cushion (128), and said seat back (130) are configured such that said seat causes no interference with the hatch door being closed while said seat in the folded state (Fig. 14) is being pivoted rearward. Regarding claim 8, Jach et al. disclose the seat storing structure for a vehicle, wherein the distance between the pivotal axis (114) and an inboard surface of the hatch door is longer than the distance between the pivotal axis (114) and the outer periphery of the path drawn by the pivotal motion of said seat cushion (128), and longer than the distance between the pivotal axis and the outer periphery of the path drawn by the pivotal motion of said seat back (130).

Odagaki et al. disclose a seat that is pivoted into a recess and in which the recess is substantially the same size as the seat being stored therein. Therefore the rear edge of the recess is on the path of the seat cushion and seat back.

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It would have been obvious to one of ordinary skill in the art at the time of the invention to make the recess substantially the same size as the seat being stored therein. The motivation would have been to allow for a maximum amount of seating room in the vehicle.

Regarding claims 4 and 11, Jach et al. disclose the seat storing structure for a vehicle as defined in Claim 1, wherein the pivotally supporting mechanism (114) includes a pivotal axis (114) at which said seat (110) is pivotally supported.

Jach et al. do not disclose that the pivotal supporting mechanism supports said seat (110) so as to locate the rear edge (at connection of 128 and 130) of said seat in the seating state at a portion rearward of the front edge of said recess (116), and the pivotal axis is located between the rear edge of said seat and the front edge of said recess with respect to the longitudinal direction of the vehicle.

Odadaki et al. disclose a seat that is pivoted into a recess and in which the pivot supports the seat so as to locate the rear edge (at connection of 10 and 11) of said seat in the seating state (solid lines in Fig. 3) at a portion rearward of the front edge of said recess (9), and the pivotal axis (17) is located between the rear edge of said seat and the front edge of said recess with respect to the longitudinal direction of the vehicle.

It would have been obvious to one of ordinary skill in the art at the time of the invention to use the pivotally supporting mechanism of Odadaki et al. as it would merely involve the alternate utilization of an equivalent pivoting means to achieve the same exact function.

Regarding claim 12, Jach et al. disclose the seat storing structure for a vehicle as defined in claim 1. Jach et al. do not disclose that the floor is slanted so that the rear portion is higher than the front portion. Odadaki et al. disclose a vehicle with a seat storing structure in which the

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vehicle floor is slanted such that its rear portion is situated higher than its front portion. It would have been obvious to one of ordinary skill in the art at the time of the invention to make the vehicle floor slanted as it would merely involve the alternate utilization of an equivalent floor means to achieve the same exact function.

Allowable Subject Matter

10. Claims 9 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art discloses other vehicle seats which are stored in a recess and seats with pivotally head rests.

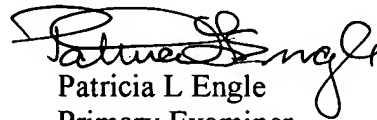
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L Engle whose telephone number is (703) 306-5777.

The examiner can normally be reached on Monday - Friday from 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, D. Glenn Dayoan can be reached on (703) 308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Patricia L Engle
Primary Examiner
Art Unit 3612

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February 18, 2005